

HOUSE BILL No. 1363

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-20-1; IC 13-21-3-12.

Synopsis: Solid waste management districts. Provides that a solid waste management district has the power to determine whether an applicant for a permit for a solid waste disposal facility or solid waste processing facility, except for a transfer station, that would be located in the district has demonstrated that there is a local need for the facility based on the district solid waste management plan. Provides that a permit may not be issued for a solid waste disposal facility if the solid waste management district in which the facility would be located determines that there is not a local need for the facility in the district.

Effective: July 1, 2008.

Candelaria Reardon

January 17, 2008, read first time and referred to Committee on Environmental Affairs.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1363

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-20-1-3, AS AMENDED BY P.L.154-2005,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 3. A person that applies for a permit referred to in
4 section 2 of this chapter must submit the following information to the
5 department along with the permit application **and to the solid waste**
6 **management district established under IC 13-21 in which the solid**
7 **waste disposal facility or solid waste processing facility would be**
8 **located:**

9 (1) A description of the area that would be served by the solid
10 waste disposal or processing facility.

11 (2) A description of existing solid waste management facilities in
12 the area that would be served by the solid waste disposal facility.

13 (3) A description of the need that would be fulfilled by
14 constructing the solid waste disposal facility.

15 SECTION 2. IC 13-20-1-4, AS AMENDED BY P.L.154-2005,
16 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2008]: Sec. 4. **(a)** If the department determines that there is



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not a local or regional need in Indiana for the solid waste disposal facility, the person referred to in section 2 of this chapter may not receive a permit described under IC 13-15-1-3 of this chapter. If a permit is denied under this ~~section~~, **subsection**, the department must provide the person referred to in section 2 of this chapter with a statement describing the reasons the department denied the permit.

(b) If the solid waste management district established under IC 13-21 in which the solid waste disposal facility would be located determines that there is not a local need for the solid waste disposal facility in the district, the person referred to in section 2 of this chapter may not receive a permit described under IC 13-15-1-3. If a permit is denied under this subsection, the solid waste management district must provide the person referred to in section 2 of this chapter with a statement describing the reasons the district denied the permit.

SECTION 3. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
- (4) The power to sue and be sued.
- (5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
- (6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
 - (A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
 - (B) The managing or disposal of solid waste.
 - (C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

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(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

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(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

- (A) fiscal;
- (B) administrative;
- (C) managerial; or
- (D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) In a joint district, the power to pay a fee from district money to the counties in the district in which a final disposal facility is located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;

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1 (C) modifying; or
 2 (D) remodeling;
 3 an existing facility. Expenditures from a capital fund established
 4 under this subdivision must further the goals and objectives
 5 contained in a district's solid waste management plan. Not more
 6 than five percent (5%) of the district's total annual budget for the
 7 year may be transferred to the capital fund that year. The balance
 8 in the capital fund may not exceed twenty-five percent (25%) of
 9 the district's total annual budget. If a district's board determines
 10 by resolution that a part of a capital fund will not be needed to
 11 further the goals and objectives contained in the district's solid
 12 waste management plan, that part of the capital fund may be
 13 transferred to the district's general fund, to be used to offset
 14 tipping fees, property tax revenues, or both tipping fees and
 15 property tax revenues.
 16 (25) The power to conduct promotional or educational programs
 17 that include giving awards and incentives that further the district's
 18 solid waste management plan.
 19 (26) The power to conduct educational programs under
 20 IC 13-20-17.5 to provide information to the public concerning:
 21 (A) the reuse and recycling of mercury in:
 22 (i) mercury commodities; and
 23 (ii) mercury-added products; and
 24 (B) collection programs available to the public for:
 25 (i) mercury commodities; and
 26 (ii) mercury-added products.
 27 (27) The power to implement mercury collection programs under
 28 IC 13-20-17.5 for the public and small businesses.
 29 **(28) The power to determine whether an applicant for a**
 30 **permit for a solid waste disposal facility or solid waste**
 31 **processing facility, except for a transfer station, that would**
 32 **be:**
 33 **(A) located in the district; and**
 34 **(B) subject to IC 13-20;**
 35 **has demonstrated that there is a local need for the facility**
 36 **based on the district solid waste management plan approved**
 37 **by the commissioner under IC 13-21-5-8.**

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